

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN SENATE JANUARY 10, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 122

Introduced by Senator Price

January 24, 2011

An act to amend Sections 2709, 2786, 2798, 4600, 4601, 4602, 4602.5, 4603, 4603.7, 4612, and 4613 of, and to add Sections 2135.7, 2786.2, 2786.5, and 4603.8 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 122, as amended, Price. Healing Arts.

(1) Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to issue a license to an applicant who meets specified qualifications and requirements, including successfully completing a medical curriculum, as specified, in a medical school or schools located in the United States or Canada approved by the board, or in a medical school located outside the United States or Canada which otherwise meets specified requirements. Existing law requires the board to issue a license to an applicant who, among other things, (A) holds an unlimited license as a physician and surgeon in another state or states or a Canadian province or provinces, (B) has held an unrestricted license to practice medicine for at least 4 years, (C) has passed a written examination recognized by the board to be equivalent in context to that administered in California, (D) the board has determined has (i) not had

disciplinary action taken against him or her, (ii) not been the subject of an adverse judgment or settlement, and (iii) has not committed any acts or crimes constituting grounds for denial of a certificate, in each case, as specified, (E) has completed specified post graduate training, and (F) is board certified in a specialty, as specified.

This bill would authorize the board to issue a physician and surgeon license to an applicant who successfully completed a medical curriculum in a medical school that is not approved or recognized by the board or that has been disapproved by the board, if the applicant meets the above requirements, except that the applicant shall have held an unrestricted physician and surgeon license in another state or country for a minimum of 5, rather than 4, years.

(2) Existing law creates within the Department of Consumer Affairs the Board of Registered Nursing, and makes the board responsible for the licensure and regulation of registered nurses. Existing law requires the board to meet quarterly.

This bill would require meetings of the board to be held in northern and southern California.

(3) Existing law defines the term “approved school of nursing” and requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead allow the board to approve a school of nursing that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009 to grant nursing degrees. The bill would specify that the term “approved school of nursing” includes an approved nursing program. The bill would subject all approved schools of nursing to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. Because the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

The bill would require the board to have a memorandum of understanding with the Bureau for Private Postsecondary Education to ensure that institutions approved by the bureau shall not be required to pay an additional application fee to the bureau for the addition of a

~~school of nursing approved by the board, and to delineate the powers of the board and bureau, as specified.~~

(4) Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the Bureau for Private Postsecondary Education and the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

(5) Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage therapist, including, but not limited to, (A) successfully completing curricula in massage and related subjects totaling a minimum of 500 hours, a minimum of 250 hours of which shall be from a school approved by the council and the other 250 hours may be secured as specified, or (B) passing a massage and bodywork competency assessment examination, as specified.

This bill would require an applicant for a massage therapist certificate to meet the other requirements for certification and to also successfully complete either (A) the 500 hours or the credit unit equivalent, as specified above, or (B) the competency assessment examination, as specified above, and curricula in massage and related subjects totaling a minimum of 250 hours, at a single approved school.

(6) Existing law requires the council to immediately suspend, on an interim basis, the certificate of a certificate holder, if the council receives notice that a certificate holder has been arrested for and charged with, among other crimes, soliciting or engaging in an act of prostitution or an act punishable as sexually related crime, and to provide notices of the suspension to the certificate holder and any business that employs the certificate holder, in each case, as specified.

This bill would, additionally, require the council to immediately suspend the certificate of a certificate holder upon receipt of clear and convincing evidence that the holder has committed an act punishable as a sexually related crime or felony. The bill would also require the council to consider any available credible mitigating evidence before making a decision to so suspend a certificate. The bill would grant the holder of a certificate so suspended the right to a hearing to be held

within 30 days, and require the council to send notice of suspension to the certificate holder and to other specified businesses.

(7) Existing law requires the council, upon request of a law enforcement agency or local government agency with responsibility for regulating massage or massage business, to provide information concerning a certificate holder, as specified.

This bill would authorize those local agencies, upon request of the council, to provide information to the council concerning an applicant or certificate holder, including, but not limited to, information related to criminal activity or unprofessional conduct allegedly engaged in by that person.

(8) Under existing law, conviction of a felony that is substantially related to the qualifications or duties of a certificate holder is a violation and basis for the council to deny an application or discipline a certificate holder.

This bill would also impose those consequences for a conviction of a felony, misdemeanor, infraction, or municipal code violation, or liability in an administrative or civil action, that is substantially related to the qualifications, functions, or duties of a certificate holder. The bill would also require a certificate holder to provide identifying information, upon request, as specified.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2135.7 is added to the Business and
2 Professions Code, to read:
3 2135.7. The board may issue a physician and surgeon's
4 certificate to an applicant who meets all of the following
5 requirements:
6 (a) The applicant holds an unlimited license as a physician and
7 surgeon in another state or states, or another country or countries,
8 which was issued upon both of the following:
9 (1) Successful completion of a resident course of professional
10 instruction leading to a degree of medical doctor equivalent to that
11 specified in Section 2089, except that the applicant may have
12 successfully completed the degree program at a medical school
13 that is not approved or recognized by the board or a medical school
14 that has been disapproved by the board pursuant to Article 4

1 (commencing with Section 2080). However, nothing in this section
2 shall be construed to require the board to evaluate for equivalency
3 any coursework obtained at a medical school disapproved by the
4 board.

5 (2) Taking and passing a written examination that is recognized
6 by the board to be equivalent in content to that administered in
7 California.

8 (b) The applicant has held an unrestricted license to practice
9 medicine in another state or states, or another country or countries,
10 or as a member of the active military, United States Public Health
11 Services, or other federal program, for a period of at least five
12 years. Any time spent by the applicant in a postgraduate training
13 program or clinical fellowship shall not be included in the
14 calculation of this five-year period.

15 (c) The board determines that no disciplinary action has been
16 taken against the applicant by any medical licensing authority and
17 that the applicant has not been the subject of adverse judgments
18 or settlements resulting from the practice of medicine that the
19 board determines constitutes evidence of a pattern of negligence
20 or incompetence.

21 (d) The applicant (1) has satisfactorily completed at least one
22 year of approved postgraduate training and is certified by a
23 specialty board approved by the American Board of Medical
24 Specialties or approved by the board pursuant to subdivision (h)
25 of Section 651; (2) has satisfactorily completed at least two years
26 of approved postgraduate training; or (3) has satisfactorily
27 completed at least one year of approved postgraduate training and
28 takes and passes the clinical competency written examination.

29 (e) The applicant has not committed any acts or crimes
30 constituting grounds for denial of a certificate under Division 1.5
31 (commencing with Section 475) or Article 12 (commencing with
32 Section 2220).

33 (f) Any application received from an applicant who has held an
34 unrestricted license to practice medicine in another state or states,
35 or another country or countries, or as a member of the active
36 military, United States Public Health Services, or other federal
37 program for five or more years shall be reviewed and processed
38 pursuant to this section. Any time spent by the applicant in a
39 postgraduate training program or clinical fellowship shall not be
40 included in the calculation of this five-year period. This subdivision

1 does not apply to applications that may be reviewed and processed
2 pursuant to Section 2151.

3 SEC. 2. Section 2709 of the Business and Professions Code is
4 amended to read:

5 2709. The board for the purpose of transacting its business
6 shall meet at least once every three months, at times and places it
7 designates by resolution. Meetings shall be held in northern and
8 southern California.

9 SEC. 3. Section 2786 of the Business and Professions Code is
10 amended to read:

11 2786. (a) An approved school of nursing, or an approved
12 nursing program, is one that has been approved by the board, gives
13 the course of instruction approved by the board, covering not less
14 than two academic years, is affiliated or conducted in connection
15 with one or more hospitals, and is an institution of higher
16 education. For purposes of this section, “institution of higher
17 education” includes, but is not limited to, community colleges
18 offering an associate of arts or associate of science degree and
19 private postsecondary institutions offering an associate of arts,
20 associate of science, or baccalaureate degree or an entry-level
21 master’s degree, and is an institution that is not subject to the
22 California Private Postsecondary Education Act of 2009 (Chapter
23 8 (commencing with Section 94800) of Part 59 of Division 10 of
24 Title 3 of the Education Code).

25 (b) A school of nursing that is affiliated with an institution that
26 is subject to the California Private Postsecondary Education Act
27 of 2009 (Chapter 8 (commencing with Section 94800) of Part 59
28 of Division 10 of Title 3 of the Education Code), may be approved
29 by the board to grant an associate of arts or associate of science
30 degree to individuals who graduate from the school of nursing or
31 to grant a baccalaureate degree in nursing with successful
32 completion of an additional course of study as approved by the
33 board and the institution involved.

34 (c) The board shall determine by regulation the required subjects
35 of instruction to be completed in an approved school of nursing
36 for licensure as a registered nurse and shall include the minimum
37 units of theory and clinical experience necessary to achieve
38 essential clinical competency at the entry level of the registered
39 nurse. The board’s standards shall be designed to require all schools

1 to provide clinical instruction in all phases of the educational
2 process.

3 (d) The board shall perform or cause to be performed an analysis
4 of the practice of the registered nurse no less than every five years.
5 Results of the analysis shall be utilized to assist in the
6 determination of the required subjects of instruction, validation of
7 the licensing examination, and assessment of the current practice
8 of nursing.

9 SEC. 4. Section 2786.2 is added to the Business and Professions
10 Code, to read:

11 2786.2. A private postsecondary school of nursing approved
12 by the board pursuant to subdivision (b) of Section 2786 shall
13 comply with Chapter 8 of Part 59 of Division 10 of Title 3 of the
14 Education Code. The board shall have a memorandum of
15 understanding with the Bureau for Private Postsecondary Education
16 ~~to ensure that institutions approved by the bureau are not required~~
17 ~~to pay an additional application fee to the bureau for the addition~~
18 ~~of a school of nursing approved by the board, and to delineate the~~
19 powers of the board to review and approve schools of nursing and
20 the powers of the bureau to protect the interest of students attending
21 institutions governed by the Private Postsecondary Education Act
22 of 2009, Chapter 8 (commencing with Section 94800) of Division
23 10 of Title 3 of the Education Code.

24 SEC. 5. Section 2786.5 is added to the Business and Professions
25 Code, to read:

26 2786.5. (a) An institution of higher education or a private
27 postsecondary school of nursing approved by the board pursuant
28 to subdivision (b) of Section 2786 shall remit to the board for
29 deposit in the Board of Registered Nursing Fund the following
30 fees, in accordance with the following schedule:

31 (1) The fee for approval of a school of nursing shall be five
32 thousand dollars (\$5,000).

33 (2) The fee for continuing approval of a nursing program
34 established after January 1, 2013, shall be three thousand five
35 hundred dollars (\$3,500).

36 (3) The processing fee for authorization of a substantive change
37 to an approval of a school of nursing shall be five hundred dollars
38 (\$500).

39 (b) If the board determines that the annual cost of providing
40 oversight and review of a school of nursing, as required by this

1 article, is less than the amount of any fees required to be paid by
2 that institution pursuant to this article, the board may decrease the
3 fees applicable to that institution to an amount that is proportional
4 to the board's costs associated with that institution.

5 SEC. 6. Section 2798 of the Business and Professions Code is
6 amended to read:

7 2798. (a) It is unlawful for anyone to conduct a school of
8 nursing unless the school has been approved by the board.

9 (b) If the board has a reasonable belief, either by complaint or
10 otherwise, that a school is allowing students to apply for its nursing
11 program and that nursing program does not have the approval of
12 the board, the board shall immediately order the school to cease
13 and desist from offering students the ability to enroll in its nursing
14 program. The board shall also notify the Bureau for Private
15 Postsecondary Education and the Attorney General's office that
16 the school is offering students the ability to enroll in a nursing
17 program that does not have the approval of the board.

18 (c) It shall be unprofessional conduct for any registered nurse
19 to violate or attempt to violate, either directly or indirectly, or to
20 assist or abet the violation of, this section.

21 (d) This section is not applicable to schools conducted under
22 Section 2789 of this chapter.

23 SEC. 7. Section 4600 of the Business and Professions Code is
24 amended to read:

25 4600. As used in this chapter, the following terms shall have
26 the following meanings:

27 (a) "Approved school" or "approved massage school" means a
28 school approved by the council that meets minimum standards for
29 training and curriculum in massage and related subjects and that
30 meets any of the following requirements:

31 (1) Is approved by the Bureau for Private Postsecondary
32 Education.

33 (2) Is approved by the Department of Consumer Affairs.

34 (3) Is an institution accredited by the Accrediting Commission
35 for Senior Colleges and Universities or the Accrediting
36 Commission for Community and Junior Colleges of the Western
37 Association of Schools and Colleges and that is one of the
38 following:

39 (A) A public institution.

1 (B) An institution incorporated and lawfully operating as a
2 nonprofit public benefit corporation pursuant to Part 2
3 (commencing with Section 5110) of Division 2 of Title 1 of the
4 Corporations Code, and that is not managed by any entity for profit.

5 (C) A for-profit institution.

6 (D) An institution that does not meet all of the criteria in
7 subparagraph (B) that is incorporated and lawfully operating as a
8 nonprofit public benefit corporation pursuant to Part 2
9 (commencing with Section 5110) of Division 2 of Title 1 of the
10 Corporations Code, that has been in continuous operation since
11 April 15, 1997, and that is not managed by any entity for profit.

12 (4) Is a college or university of the state higher education system,
13 as defined in Section 100850 of the Education Code.

14 (5) Is a school of equal or greater training that is recognized by
15 the corresponding agency in another state or accredited by an
16 agency recognized by the United States Department of Education.

17 (b) “Compensation” means the payment, loan, advance,
18 donation, contribution, deposit, or gift of money or anything of
19 value.

20 (c) “Massage therapist,” “bodyworker,” “bodywork therapist,”
21 or “massage and bodywork therapist” means a person who is
22 certified by the California Massage Therapy Council under
23 subdivision (c) of Section 4601 and who administers massage for
24 compensation.

25 (d) “Massage practitioner,” “bodywork practitioner,” or
26 “massage and bodywork practitioner” means a person who is
27 certified by the California Massage Therapy Council under
28 subdivision (b) of Section 4601 and who administers massage for
29 compensation.

30 (e) “Council” means the California Massage Therapy Council
31 created pursuant to this chapter, which shall be a nonprofit
32 organization exempt from taxation under Section 501(c)(3) of Title
33 26 of the United States Code. The council may commence activities
34 as authorized by this section once it has submitted a request to the
35 Internal Revenue Service seeking this exemption. Whenever the
36 term “organization” is used in this chapter, it shall mean the
37 council, except where the context indicates otherwise.

38 (f) “Registered school” means a school approved by the council
39 that meets minimum standards for training and curriculum in
40 massage and related subjects and that either is approved by the

1 Bureau for Private Postsecondary Education or the Department of
2 Consumer Affairs, or is an institution accredited by the senior
3 commission or the junior commission of the Western Association
4 of Schools and Colleges as defined in paragraph (3) of subdivision
5 (a), is a college or university of the state higher education system
6 as defined in Section 100850 of the Education Code, or is a school
7 of equal or greater training that is approved by the corresponding
8 agency in another state.

9 (g) For purposes of this chapter, the terms “massage” and
10 “bodywork” shall have the same meaning.

11 (h) “Operator of a massage business” means a person, whether
12 owner or nonowner, who manages or operates a massage business.

13 SEC. 8. Section 4601 of the Business and Professions Code is
14 amended to read:

15 4601. (a) The council shall issue a certificate under this chapter
16 to an applicant who satisfies the requirements of this chapter.

17 (b) (1) In order to obtain certification as a massage practitioner,
18 an applicant shall submit a written application and provide the
19 council with satisfactory evidence that he or she meets all of the
20 following requirements:

21 (A) The applicant is 18 years of age or older.

22 (B) The applicant has successfully completed, at a single
23 approved school, curricula in massage and related subjects, totaling
24 a minimum of 250 hours or the credit unit equivalent, that
25 incorporates appropriate school assessment of student knowledge
26 and skills. Included in the hours shall be instruction addressing
27 anatomy and physiology, contraindications, health and hygiene,
28 and business and ethics, with at least 100 hours of the required
29 minimum 250 hours devoted to these curriculum areas.

30 (C) All fees required by the council have been paid.

31 (2) New certificates shall not be issued pursuant to this
32 subdivision after December 31, 2015. Certificates issued pursuant
33 to this section or subdivision (a) or (c) of Section 4604 on or before
34 December 31, 2015, shall, after December 31, 2015, be renewed
35 without any additional educational requirements, provided that the
36 certificate holder continues to be qualified pursuant to this chapter.

37 (c) In order to obtain certification as a massage therapist, an
38 applicant shall submit a written application and provide the council
39 with satisfactory evidence that he or she meets all of the following
40 requirements:

1 (1) The applicant is 18 years of age or older.

2 (2) The applicant satisfies at least one of the following
3 requirements:

4 (A) He or she has successfully completed the curricula in
5 massage and related subjects totaling a minimum of 500 hours or
6 the credit unit equivalent. Of this 500 hours, a minimum of 250
7 hours shall be from approved schools. The remaining 250 hours
8 required may be secured either from approved or registered schools,
9 or from continuing education providers approved by, or registered
10 with, the council or the Department of Consumer Affairs. After
11 December 31, 2015, applicants may only satisfy the curricula in
12 massage and related subjects from approved schools.

13 (B) The applicant has done both of the following:

14 (i) Successfully completed, at a single approved school, curricula
15 in massage and related subjects totaling a minimum of 250 hours
16 that incorporates appropriate school assessment of student
17 knowledge and skills. Included in the hours shall be instruction
18 addressing anatomy and physiology, contraindications, health and
19 hygiene, and business and ethics, with at least 100 hours of the
20 required minimum 250 hours devoted to these curriculum areas.

21 (ii) Passed a massage and bodywork competency assessment
22 examination that meets generally recognized psychometric
23 principles and standards, and that is approved by the board. The
24 successful completion of this examination may have been
25 accomplished before the date the council is authorized by this
26 chapter to begin issuing certificates.

27 (3) All fees required by the council have been paid.

28 (d) The council shall issue a certificate to an applicant who
29 meets the other qualifications of this chapter and holds a current
30 and valid registration, certification, or license from any other state
31 whose licensure requirements meet or exceed those defined within
32 this chapter. The council shall have discretion to give credit for
33 comparable academic work completed by an applicant in a program
34 outside of California.

35 (e) An applicant applying for a massage therapist certificate
36 shall file with the council a written application provided by the
37 council, showing to the satisfaction of the council that he or she
38 meets all of the requirements of this chapter.

39 (f) Any certification issued under this chapter shall be subject
40 to renewal every two years in a manner prescribed by the council,

1 and shall expire unless renewed in that manner. The council may
2 provide for the late renewal of a license.

3 (g) (1) The council shall have the responsibility to determine
4 that the school or schools from which an applicant has obtained
5 the education required by this chapter meet the requirements of
6 this chapter. If the council has any reason to question whether or
7 not the applicant received the education that is required by this
8 chapter from the school or schools that the applicant is claiming,
9 the council shall investigate the facts to determine that the applicant
10 received the required education prior to issuing a certificate.

11 (2) For purposes of paragraph (1) and any other provision of
12 this chapter for which the council is authorized to receive factual
13 information as a condition of taking any action, the council shall
14 have the authority to conduct oral interviews of the applicant and
15 others or to make any investigation deemed necessary to establish
16 that the information received is accurate and satisfies any criteria
17 established by this chapter.

18 (h) The certificate issued pursuant to this chapter, as well as
19 any identification card issued by the council, shall be surrendered
20 to the council by any certificate holder whose certificate has been
21 suspended or revoked.

22 SEC. 9. Section 4602 of the Business and Professions Code is
23 amended to read:

24 4602. (a) The council may discipline a certificate holder by
25 any, or a combination, of the following methods:

26 (1) Placing the certificate holder on probation.

27 (2) Suspending the certificate and the rights conferred by this
28 chapter on a certificate holder for a period not to exceed one year.

29 (3) Revoking the certificate.

30 (4) Suspending or staying the disciplinary order, or portions of
31 it, with or without conditions.

32 (5) Taking other action as the council, as authorized by this
33 chapter or its bylaws, deems proper.

34 (b) The council may issue an initial certificate on probation,
35 with specific terms and conditions, to any applicant.

36 (c) (1) Notwithstanding any other provision of law, if the
37 council receives notice that a certificate holder has been arrested
38 and charges have been filed by the appropriate prosecuting agency
39 against the certificate holder alleging a violation of subdivision

40 (b) of Section 647 of the Penal Code or any other offense described

1 in subdivision (h) of Section 4603, the council shall take all of the
2 following actions:

3 (A) Immediately suspend, on an interim basis, the certificate of
4 that certificate holder.

5 (B) Notify the certificate holder within 10 days at the address
6 last filed with the council that the certificate has been suspended,
7 and the reason for the suspension.

8 (C) Notify any business within 10 days that the council has in
9 its records as employing the certificate holder that the certificate
10 has been suspended.

11 (2) Upon notice to the council that the charges described in
12 paragraph (1) have resulted in a conviction, the suspended
13 certificate shall become subject to permanent revocation. The
14 council shall provide notice to the certificate holder within 10 days
15 that it has evidence of a valid record of conviction and that the
16 certificate will be revoked unless the certificate holder provides
17 evidence within 15 days that the conviction is either invalid or that
18 the information is otherwise erroneous.

19 (3) Upon notice that the charges have resulted in an acquittal,
20 or have otherwise been dismissed prior to conviction, the certificate
21 shall be immediately reinstated and the certificate holder and any
22 business that received notice pursuant to subparagraph (C) of
23 paragraph (1) shall be notified of the reinstatement within 10 days.

24 (d) Notwithstanding any other provision of law, if the council
25 receives clear and convincing evidence that a certificate holder
26 has committed an act punishable as a sexually related crime or a
27 felony, the council may immediately suspend the certificate of that
28 certificate holder. A decision to immediately suspend a certificate
29 pursuant to this subdivision shall be based on clear and convincing
30 evidence and the council shall also consider any available credible
31 mitigating evidence before making a decision to suspend a
32 certificate. Written statements by any person shall not be
33 considered by the council when determining whether to
34 immediately suspend a certificate unless made under penalty of
35 perjury. If the council suspends the certificate of a certificate holder
36 in accordance with this subdivision, the council shall take all of
37 the following additional actions:

38 (1) Notify the certificate holder, at the address last filed with
39 the council, within 10 business days by a method providing
40 delivery confirmation, that the certificate has been suspended, the

1 reason for the suspension, and that the certificate holder has the
2 right to request a hearing pursuant to paragraph (3).

3 (2) Notify by electronic mail or any other means consistent with
4 the notice requirements of this chapter, within 10 business days,
5 any business that the council has in its records as employing or
6 contracting with the certificate holder for massage services, and
7 the California city or county permitting authority that has
8 jurisdiction over any business that the council has in its records as
9 employing or contracting with the certificate holder, that the
10 certificate has been suspended.

11 (3) A certificate holder whose certificate is suspended pursuant
12 to this subdivision shall have the right to request, in writing, a
13 hearing to challenge the factual basis for the suspension. If the
14 holder of the suspended certificate requests a hearing on the
15 suspension, the hearing shall be held within 30 days after receipt
16 of the request. A holder whose certificate is suspended based on
17 paragraph (1) shall be subject to revocation or other discipline in
18 accordance with subdivision (a) of Section 4602.

19 SEC. 10. Section 4602.5 of the Business and Professions Code
20 is amended to read:

21 4602.5. (a) Upon the request of any law enforcement agency
22 or any other representative of a local government agency with
23 responsibility for regulating, or administering a local ordinance
24 relating to, massage or massage businesses, the council shall
25 provide information concerning a certificate holder, including, but
26 not limited to, the current status of the certificate, any history of
27 disciplinary actions taken against the certificate holder, the home
28 and work addresses of the certificate holder, and any other
29 information in the council's possession that is necessary to verify
30 facts relevant to administering the local ordinance.

31 (b) Upon the request of the council to any law enforcement
32 agency or any other representative of a local government agency
33 with responsibility for regulating or administering a local ordinance
34 relating to massage or massage businesses, the law enforcement
35 agency or local government agency is authorized to provide
36 information to the council concerning a certificate applicant or
37 certificate holder, including, but not limited to, the current status
38 of any application or local permit; any history of disciplinary action
39 taken against the certificate applicant or certificate holder; any
40 information related to criminal activity or unprofessional conduct

1 allegedly engaged in by a certificate applicant or certificate holder,
2 including, but not limited to, police reports and declarations of
3 conduct; the home and work addresses of the certificate applicant
4 or certificate holder; and any other information in the law
5 enforcement agency's or other local government agency's
6 possession that is necessary to verify facts or implement the
7 provisions of this chapter.

8 (c) The council shall accept information provided by any law
9 enforcement agency or any other representative of a local
10 government agency with responsibility for regulating, or
11 administering a local ordinance relating to, massage or massage
12 businesses. The council shall have the responsibility to review any
13 information received and to take any actions authorized by this
14 chapter that are warranted by that information.

15 SEC. 11. Section 4603 of the Business and Professions Code
16 is amended to read:

17 4603. It is a violation of this chapter for a certificate holder to
18 commit, and the council may deny an application for a certificate
19 or discipline a certificate holder for, any of the following:

20 (a) Unprofessional conduct, including, but not limited to, denial
21 of licensure, revocation, suspension, restriction, or any other
22 disciplinary action against a certificate holder by another state or
23 territory of the United States, by any other government agency, or
24 by another California health care professional licensing board. A
25 certified copy of the decision, order, or judgment shall be
26 conclusive evidence of these actions.

27 (b) Procuring a certificate by fraud, misrepresentation, or
28 mistake.

29 (c) Violating or attempting to violate, directly or indirectly, or
30 assisting in or abetting the violation of, or conspiring to violate,
31 any provision or term of this chapter or any rule or bylaw adopted
32 by the council.

33 (d) Conviction of any felony, misdemeanor, infraction, or
34 municipal code violation, or liability in an administrative or civil
35 action, that is substantially related to the qualifications, functions,
36 or duties of a certificate holder, in which event the record of the
37 conviction or other judgment shall be conclusive evidence of the
38 crime or liability.

1 (e) Impersonating an applicant or acting as a proxy for an
2 applicant in any examination referred to under this chapter for the
3 issuance of a certificate.

4 (f) Impersonating a certified practitioner or therapist, or
5 permitting or allowing an uncertified person to use a certificate.

6 (g) Committing any fraudulent, dishonest, or corrupt act that is
7 substantially related to the qualifications or duties of a certificate
8 holder.

9 (h) Committing any act punishable as a sexually related crime.

10 SEC. 12. Section 4603.7 of the Business and Professions Code
11 is amended to read:

12 4603.7. A certificate holder shall include the name under which
13 he or she is certified and his or her certificate number in any and
14 all advertising and shall display his or her original certificate at
15 his or her place of business. A certificate holder shall have his or
16 her identification card in his or her possession while providing
17 massage services.

18 SEC. 13. Section 4603.8 is added to the Business and
19 Professions Code, to read:

20 4603.8. A certificate holder shall, upon request at the location
21 where he or she is providing massage services, provide his or her
22 full name and certificate number to a member of the public, the
23 council, or a member of law enforcement or a local government
24 agency charged with regulating massage.

25 SEC. 14. Section 4612 of the Business and Professions Code
26 is amended to read:

27 4612. (a) (1) The holder of a certificate issued pursuant to
28 this chapter shall have the right to practice massage, consistent
29 with this chapter and the qualifications established by his or her
30 certification, in any city, county, or city and county in this state
31 and shall not be required to obtain any other license, permit, or
32 other authorization, except as provided in this section, to engage
33 in that practice.

34 (2) Notwithstanding any other provision of law, a city, county,
35 or city and county shall not enact an ordinance that requires a
36 license, permit, or other authorization to provide massage for
37 compensation by an individual who is certified pursuant to this
38 chapter and who is practicing consistent with the qualifications
39 established by his or her certification, or by a massage business
40 or massage establishment that employs or uses only persons who

1 are certified pursuant to this chapter to provide massage for
2 compensation. No provision of any ordinance enacted by a city,
3 county, or city and county that is in effect before the effective date
4 of this chapter, and that requires a license, permit, or other
5 authorization to provide massage for compensation, may be
6 enforced against an individual who is certified pursuant to this
7 chapter or against a massage business or massage establishment
8 that employs or uses only persons who are certified pursuant to
9 this chapter to provide massage for compensation.

10 (3) Except as provided in subdivision (b), nothing in this section
11 shall be interpreted to prevent a city, county, or city and county
12 from adopting or enforcing any local ordinance that provides for
13 reasonable health and safety requirements for massage
14 establishments or businesses. Subdivision (b) shall not apply to
15 any massage establishment or business that employs or uses
16 persons to provide massage services who are not certified pursuant
17 to this chapter.

18 (b) (1) This subdivision shall apply only to massage
19 establishments or businesses that are sole proprietorships, where
20 the sole proprietor is certified pursuant to this chapter, and to
21 massage establishments or businesses that employ or use only
22 persons certified pursuant to this chapter to provide massage
23 services. For purposes of this subdivision, a sole proprietorship is
24 a business where the owner is the only person employed by that
25 business to provide massage services.

26 (2) (A) Any massage establishment or business described in
27 paragraph (1) shall maintain on its premises evidence for review
28 by local authorities that demonstrates that all persons providing
29 massage services are certified.

30 (B) Nothing in this section shall preclude a city, county, or city
31 and county from including in a local ordinance a provision that
32 requires a business described in paragraph (1) to file copies or
33 provide other evidence of the certificates held by the persons who
34 are providing massage services at the business.

35 (3) A city, county, or city and county may charge a massage
36 business or establishment a business licensing fee, provided that
37 the fee shall be no higher than the lowest fee that is applied to
38 other individuals and businesses providing professional services,
39 as defined in subdivision (a) of Section 13401 of the Corporations
40 Code.

(4) Nothing in this section shall prohibit a city, county, or city and county from enacting ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, or zoning requirements applicable to an individual certified pursuant to this chapter or to a massage establishment or business that uses only individuals who are certified pursuant to this chapter to provide massage for compensation, provided that, unless otherwise exempted by this chapter, these ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements shall be no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code. No provision of any ordinance, regulation, rule, requirement, restriction, land use regulation, moratoria, conditional use permit, or zoning requirement enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that is inconsistent with this paragraph, may be enforced against an individual who is certified pursuant to this chapter or against a massage business or massage establishment that uses only individuals who are certified pursuant to this chapter to provide massage for compensation.

(5) Local building code or physical facility requirements applicable to massage establishments or businesses shall not require additional restroom, shower, or other facilities that are not uniformly applicable to other professional or personal service businesses, nor shall building or facility requirements be adopted that (A) require unlocked doors when there is no staff available to ensure security for clients and massage staff who are behind closed doors, or (B) require windows that provide a view into massage rooms that interfere with the privacy of clients of the massage business.

(6) A city, county, or city and county may adopt reasonable health and safety requirements with respect to massage establishments or businesses, including, but not limited to, requirements for cleanliness of massage rooms, towels and linens, and reasonable attire and personal hygiene requirements for persons providing massage services, provided that nothing in this paragraph shall be interpreted to authorize adoption of local ordinances that

1 impose additional qualifications, such as medical examinations,
2 background checks, or other criteria, upon any person certified
3 pursuant to this chapter.

4 (7) Nothing in this section shall preclude a city, county, or city
5 and county from doing any of the following:

6 (A) Requiring an applicant for a business license to operate a
7 massage business or establishment to fill out an application that
8 requests the applicant to provide relevant information, as long as
9 the information requested is the same as that required of other
10 individuals and professionals providing professional services as
11 defined in subdivision (a) of Section 13401 of the Corporations
12 Code.

13 (B) Making reasonable investigations into the information so
14 provided.

15 (C) Denying or restricting a business license if the applicant
16 has provided materially false information.

17 (c) An owner or operator of a massage business or establishment
18 who is certified pursuant to this chapter shall be responsible for
19 the conduct of all employees or independent contractors working
20 on the premises of the business. Failure to comply with this chapter
21 may result in revocation of the owner's or operator's certificate in
22 accordance with Section 4603. Nothing in this section shall
23 preclude a local ordinance from authorizing suspension, revocation,
24 or other restriction of a license or permit issued to a massage
25 establishment or business if violations of this chapter, or of the
26 local ordinance, occur on the business premises.

27 (d) Nothing in this section shall preclude a city, county, or city
28 and county from adopting a local ordinance that is applicable to
29 massage businesses or establishments described in paragraph (1)
30 of subdivision (b) and that does either of the following:

31 (1) Provides that duly authorized officials of the city, county,
32 or city and county have the right to conduct reasonable inspections,
33 during regular business hours, to ensure compliance with this
34 chapter, the local ordinance, or other applicable fire and health
35 and safety requirements.

36 (2) Requires an owner or operator to notify the city, county, or
37 city and county of any intention to rename, change management,
38 or convey the business to another person.

39 (e) Nothing in this chapter shall be construed to preclude a city,
40 county, or city and county from requiring a background check of

1 an owner or operator of a massage establishment who owns 5
2 percent or more of a massage business or massage establishment
3 and who is not certified pursuant to this chapter. The background
4 check may include, but is not limited to, a criminal background
5 check, including requiring submission of fingerprints for a state
6 and federal criminal background check, submission of an
7 application that requires the applicant to state information,
8 including, but not limited to, the applicant's business, occupation,
9 and employment history for the 10 years preceding the date of
10 application, the inclusive dates of same, and the name and address
11 of any massage business or other like establishment owned or
12 operated by any person who is subject to the background check
13 requirement of this subdivision. If a noncertified owner's or
14 operator's background check results in a finding that the city,
15 county, or city and county determines is relevant to owning or
16 operating a massage establishment, then the provisions of
17 subdivision (a) and (b) shall not apply to that establishment and
18 the city, county, or city and county may regulate that establishment
19 in any manner it deems proper that is in accordance with the law.

20 SEC. 15. Section 4613 of the Business and Professions Code
21 is amended to read:

22 4613. (a) Nothing in this chapter shall restrict or limit in any
23 way the authority of a city, county, or city and county to adopt a
24 local ordinance governing any person who is not certified pursuant
25 to this chapter.

26 (b) Nothing in this chapter is intended to affect the practice
27 rights of any person licensed by the state to practice or perform
28 any functions or services pursuant to that license.

29 (c) Nothing in this chapter shall be construed to restrict or limit
30 in any way the authority of a city, county, or city and county to
31 adopt a local ordinance restricting the opening of a new massage
32 establishment in a location in which a massage establishment has
33 been closed due to criminal activity.